

~~ORDER ADDRESSING~~
~~PENDING MOTIONS~~

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|------------------------|---|--------------------------|
| JAMES EDWARD WILLIAMS, |) | No. C 12-1691 RMW(PR) |
| |) | |
| Plaintiff, |) | ORDER ADDRESSING |
| |) | PENDING MOTIONS |
| v. |) | |
| |) | (Docket Nos. 63, 66, 69) |
| R. PEREZ, et al., |) | |
| |) | |
| Defendants. |) | |

Plaintiff, a state prisoner proceeding pro se, filed a second amended civil rights complaint (“SAC”) pursuant to 42 U.S.C. § 1983. Defendants have filed a motion for summary judgment.¹ Plaintiff’s opposition is due September 8, 2014.

Plaintiff has filed a motion requesting the court to order the United States Department of Justice, Civil Right Division, Special Litigation Section to investigate the claims that plaintiff brings forth in this civil rights action. Pursuant to the Civil Right of Institutionalized Persons Act (“CRIPA”), the Attorney General has the discretion to institute a civil action against a state actor who has engaged in egregious or flagrant conditions that have deprived persons of their constitutional rights pursuant to “a pattern or practice of resistance to the full enjoyment of such rights.” 42 U.S.C. § 1997a(a). In essence, plaintiff appears to be asking the court to use the

¹ Defendants’ motion for an extension of time to file their motion for summary judgment is GRANTED. (Docket No. 69.) Defendants’ motion for summary judgment is deemed timely filed.

1 Department of Justice to assist plaintiff in investigating the named defendants in lieu of, or in
2 addition to, conducting discovery. The court generally is not involved in the discovery process
3 and only becomes involved when there is a dispute between the parties about discovery
4 responses. Only when the parties have a discovery dispute that they cannot resolve among
5 themselves should the parties even consider asking the court to intervene in the discovery
6 process. At the time plaintiff filed his motion, there was no indication that any discovery dispute
7 was ongoing, but rather, that plaintiff wished the court to assist him in conducting discovery. As
8 such, plaintiff's motion is DENIED. (Docket No. 63.)

9 Plaintiff has also filed a "motion to compel discovery under witness testimony."
10 Specifically, plaintiff requests that the court obtain the forwarding address of Dr. Danial, who
11 witnessed plaintiff's argument with defendant Perez on March 29, 2011. Plaintiff also requests
12 that the court set up a video conference and obtain answers from Dr. Danial of specific questions
13 set forth by plaintiff. The court has no authority to undertake discovery for plaintiff. Plaintiff
14 could subpoena Dr. Daniel pursuant to Rule 45 of the Federal Rules of Civil Procedure and take
15 his deposition on written questions following the procedure set forth in Federal Rule of Civil
16 Procedure 31. Plaintiff could possibly obtain Dr. Danial's address by sending an interrogatory to
17 defendant or by asking someone at Salinas Valley State Prison where Dr. Danial was transferred.
18 Plaintiff's "motion to compel discovery under witness testimony" is DENIED (Docket No. 66).

19 IT IS SO ORDERED.

20
21 DATED: JDCFI


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES EDWARD WILLIAMS,
Plaintiff,

Case Number: CV12-01691 RMW

CERTIFICATE OF SERVICE

v.

R. PEREZ et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 30, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Edward Williams V-54214
Kern Valley State Prison
D-5-113
P.O. Box 5104
Delano, CA 93216

Dated: September 30, 2014

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk